



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2018-0232]

RIN 1625-AA00

Safety Zone; Blue Angels Air Show; St. Johns River, Jacksonville, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the St. Johns River in the vicinity of Naval Air Station (NAS) Jacksonville, Florida during the Blue Angels Air Show. This rulemaking prohibits persons and vessels from entering, transiting through, remaining within, or anchoring in the safety zone unless authorized by the Captain of the Port (COTP) Jacksonville or a designated representative.

DATES: This rule is effective from 8 a.m. on October 26, 2018 until 5 p.m. on October 28, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0232 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Emily Sysko, Chief, Waterways Management Division, U.S. Coast Guard; telephone 904-714-7616, email Emily.T.Sysko@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On May 18, 2018, NAS Jacksonville submitted a marine event application to the Coast Guard for the Blue Angels Air Show that will take place daily from October 26, 2018 through October 28, 2018. The air show will consist of various flight demonstrations over the St. Johns River in vicinity of NAS Jacksonville. Over the years, there have been unfortunate instances of aircraft mishaps and crashes during performances at various air shows around the world. Occasionally, these incidents result in a wide area of scattered debris in the water that can damage property or cause significant injury or death to the public observing the air shows. The Captain of the Port (COTP) Jacksonville has determined that a safety zone is necessary to protect the general public from hazards associated with aerial flight demonstrations.

On July 26, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Safety Zone; Blue Angels Air Show; St. Johns River, Jacksonville, FL” (83 FR 35442). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended August 27, 2018, we received 1 comment.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The

Captain of the Port Jacksonville (COTP) has determined that potential hazards associated with the aerial flight demonstrations will be a safety concern for members of the public viewing the demonstration within, or transiting through, the safety zone. The purpose of this rule is to ensure safety of vessels and persons on the navigable waters of the St. Johns River in the vicinity of Naval Air Station (NAS) Jacksonville, Florida, before, during, and after the air show.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received 1 comment on our in support of the regulation. There are no changes in the regulatory text of this rule from the regulatory text in the NPRM.

This rule establishes a safety zone daily from 8 a.m. to 5 p.m. on October 26, 2018 through October 28, 2018, on the waters of the St. John's River in the vicinity of NAS Jacksonville, Florida. The safety zone will encompass all waters within an area approximately three quarters of a mile parallel to the shoreline, and one mile out into the St. Johns River in Jacksonville, FL. The duration of the zone is intended to ensure the safety of the public on these navigable waters during the aerial flight demonstrations. No vessel or person will be permitted to enter, transit through, remain within, or anchor in the safety zone without obtaining permission from the COTP or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders

related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which would impact a small designated area of the St. Johns River for nine hours on each of the three days the air show is occurring. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this

rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism,

if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f),

and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting nine hours daily that prohibits persons and vessels from entering, transiting through, remaining within, within, or anchoring in an area of approximately one square mile. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6 and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T07-0232 to read as follows:

§ 165.T07-0232 Safety Zone, Blue Angels Air Show; St. Johns River, Jacksonville, FL.

(a) Regulated area. The following area is a safety zone: All waters of the St. Johns River, from surface to bottom, encompassed by a line connecting the following points beginning at 30°13'41"N; 081°39'45"W, thence due east to, 30°13'41"N; 081°38'35"W, thence south to 30°14'27" N.; 081°38'35" W, thence west to 30°14'27"N' 081°39'45"W, and thence along the shore line back to the beginning point. These coordinates are based on North American Datum 1983.

(b) Definition. The term "designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Jacksonville (COTP) in the enforcement of the safety zone.

(c) Regulations. (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Jacksonville by telephone at (904) 714-7557, or a designated representative via VHF-FM radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Jacksonville or a designated representative

(3) The Coast Guard will provide notice of the regulated area through Broadcast Notice to Mariners via VHF-FM channel 16 or by on-scene designated representatives.

(d) Enforcement period. This rule will be enforced daily from 8 a.m. until 5 p.m.
from October 26, 2018 through October 28, 2018.

Dated: October 11, 2018

T. C. Wiemers,
Captain, U.S. Coast Guard,
Captain of the Port Jacksonville.

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